

## **REMARKS**

### **I. Introduction**

Claims 18 to 24 and 26 to 46 are currently pending in the present application, since claims 1 to 17 and 25 were previously canceled. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for the indication that the drawings submitted with Applicants' Response dated June 1, 2007 are accepted.

Applicants thank the Examiner for the indication that the Examiner will consider Applicants' remarks regarding the Information Disclosure Statements (IDS) of May 24, 2004 and November 9, 2006.

Applicants thank the Examiner for the indication that the Examiner will consider Applicants' remarks regarding requirements stipulated in the Office Action of February 1, 2007.

### **II. Rejection of Claims 18 to 24 and 26 to 46 Under 35 U.S.C. § 112, ¶ 1**

The Office Action repeats the rejection of claims 18 to 24 and 26 to 46 under 35 U.S.C. § 112, ¶ 1 as allegedly failing to comply with the enablement requirement, pending clarification, via an interview, of Applicants' remarks regarding this rejection made in Applicants' Response dated June 1, 2007.

Upon noticing this request, Applicants' representative attempted, but failed, to reach the Examiner prior to expiration of the due date by which to file a Response to the present Office Action. Therefore, another attempt to reach the Examiner will be made after filing this Response. In the meantime, some clarification is provided below.

The Office Action asserts that the claims are not enabled because at least some of the claims do not expressly require testing and "[t]he Specification is almost entirely directed to testing by using algorithms." Office Action of February 1, 2007, page 6.

The standard for determining that a patent application complies with the enablement requirement is that the specification describe how to make and use the invention — which is defined by the claims, to such an extent that "one reasonably skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation." (*See id.* (citing *United States v. Teletronics, Inc.*, 857 F.2d 778, 785, 8 U.S.P.Q.2d 1217, 1223 (Fed. Cir. 1988))).

The Specification describes and explains how to practice the subject matter in each of the pending claims to the extent required for one skilled in the art to practice the claimed invention without undue experimentation. Although the Specification does refer to testing and indeed provides a novel method of performing testing, nevertheless, even if the claims are not limited to “testing,” one would be able to practice the claimed subject matter for running programs that are not for testing.

For example, with respect to claim 18, one skilled in the art would be able to practice the claimed subject matter as applied to any two programs, including, but not necessarily limited to an instance of, a testing algorithm. It is understood that computing architecture and machinery can be used for running many types of programs, depending on the desired application. A novel method of using such architecture and machinery need not be limited to use with only particular ones of the different types of programs. One skilled in the art would understand from the Specification that although the Specification describes a novel use of computing machinery that provides an advantageous method of testing, the novel use of the machinery can also be applied to other types of programs. The way the method would be applied to other types of programs may be essentially the same as the way it is applied to testing.

Therefore, it is respectfully submitted that the claims fully comply with the enablement requirement of 35 U.S.C. § 112, ¶ 1.

In view of Applicants’ remarks made in Applicants’ Response dated June 1, 2007 and in view of the above clarification, withdrawal of this rejection is therefore respectfully requested.

#### **VI. Rejection of Claims 18 to 24 and 26 to 46 Under 35 U.S.C. § 112, ¶ 2**

The Office Action repeats the rejection of claims 18 to 24 and 26 to 46 under 35 U.S.C. § 112, ¶ 2 as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, pending clarification, via an interview, of Applicants’ remarks regarding this rejection made in Applicants’ Response dated June 1, 2007.

Upon noticing this request, Applicants’ representative attempted, but failed, to reach the Examiner prior to expiration of the due date by which to file a Response to the present Office Action. Therefore, another attempt to reach the Examiner will be made after filing this Response. In the meantime, some clarification is provided below.

Specifically, the present Office Action expresses puzzlement regarding Applicants' remarks made in Applicants' Response dated June 1, 2007 concerning the breadth of the claims.

To clarify, the Office Action of February 1, 2007 contends that the claims are indefinite since the claims do not specify the particular programs referred to in the claims. However, that the claims are not more narrowly written should not result in their categorization as indefinite. In effect, the Office Action states that the claims are too broad, since the term "program" is clearly understood, and the only issue that remains is regarding the claims' use of the term program without more narrowly specifying the types of programs. Therefore, Applicants note that breadth is not to be equated with indefiniteness and that the proper rubrics for examining the issue of breadth are those of anticipation and obviousness under §§ 102 and 103.

Further, since the terms of the claims are clear and give rise to no ambiguity, the claims are definite.

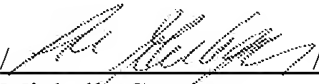
In view of Applicants' remarks made in Applicants' Response dated June 1, 2007 and in view of the above clarification, withdrawal of this rejection is therefore respectfully requested.

## **VII. Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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